



**FILED**

06-25-07  
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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of California American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates.

Application 04-09-019  
(Filed September 20, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING  
MOTION OF THE DIVISION OF RATEPAYER ADVOCATES FOR  
WAIVER OF CERTAIN *EX PARTE* RULES**

In a motion filed on May 30, 2007, the Division of Ratepayer Advocates (DRA) requests the assigned Administrative Law Judge (ALJ) issue a ruling waiving the *ex parte* rule for two types of communications with Commissioner Advisors regarding the Monterey Regional Water Supply Reliability Dialogue. First, DRA requests that the ALJ waive the Rule 8.5 requirement that parties report oral communications to Commissioner Advisors in attendance at meetings of the Monterey Regional Water Supply Reliability Dialogue. Second, DRA requests that the ALJ waive the *ex parte* Rule 8.3(a) requirement that it report written communications provided to Commissioner Advisors (not in attendance at the meeting) regarding the Monterey Regional Water Supply Reliability

Dialogue, when DRA has distributed the written communications to all parties to the proceeding.<sup>1</sup>

DRA states that in late 2006, it began the process of establishing what is now known as the Monterey Regional Water Supply Reliability Dialogue (Group). The Group has met five times since its formation early this year. The meetings are open to the public and have been well attended and included representatives from a diverse group of stakeholders including California American Water Company, local public agencies such as Monterey Peninsula Water Management District, the Monterey County Water Resources Agency, the Monterey Regional Water Pollution Control Agency, and public interest groups. DRA plans to continue to facilitate meetings of the Group as long as the meetings are productive. DRA is hopeful that through the Group, a regional alternative to the Coastal Water Project will be developed that has greater ratepayer and public benefits and will have enhanced political and public support.

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<sup>1</sup> The Rules referred to by DRA are set forth below in pertinent part:

**8.3 (Rule 8.3) Reporting *Ex Parte* Communications**

- (a) *Ex parte* communications that are subject to these reporting requirements shall be reported by the interested person, regardless of whether the communication was initiated by the interested person. A “Notice of *Ex Parte* Communication” (Notice) shall be filed with the Commission’s San Francisco Docket Office within three working days of the communication. The notice shall include the following information: . . .

**8.5 (Rule 8.5) Communications with Advisors**

Communications with Commissioners’ personal advisors are subject to all of the restrictions on, and reporting requirements applicable to, *ex parte* communications, except that oral communications in ratesetting proceedings are permitted without the restrictions of Rule 8.2(c)(1) and (2).

This ruling formally endorses, and requires proper notice of, the meetings of the Monterey Regional Water Supply Reliability Dialogue (Group) as “workshop(s), or other public proceeding(s)” for purposes of Pub. Util. Code § 1701(c)(4).<sup>2</sup> Communications to decisionmakers and Commissioner Advisors made at properly noticed Group workshops are not *ex parte* communications pursuant to Rule 8.1(c) and do not require reporting under Rule 8.3. DRA shall file timely notice of Group workshops, and the workshops shall be noticed in the Commission’s Daily Calendar.

DRA’s request for waiver of the *ex parte* reporting requirement for written communications provided to Commissioner Advisors (not in attendance at the meeting) regarding the Group and distributed to the parties, is denied. Such written communications provided to Commissioner Advisors outside the Group meetings, are *ex parte* communications and require reporting under Rule 8.1(c) and Rule 8.3. However, DRA may attach a Notice of Availability to the served (but not filed) copies of the Notice of *Ex Parte* Communication, identifying the documents provided, in lieu of copies of the documents. DRA shall attach copies of the documents to the filed copies of the Notice of *Ex Parte* Communication.

**IT IS RULED:**

1. The meetings of the Monterey Regional Water Supply Reliability Dialogue (Group) are workshops for purposes of Pub. Util. Code § 1701(c)(4).

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<sup>2</sup> Pub. Util. Code § 1701(c)(4) states:

(4) “*Ex parte* communication,” for purposes of this article, means any oral or written communication between a decisionmaker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, *workshop or other public proceeding*, or on the official record of the proceeding on the matter. . . . (italics added)

2. DRA shall file notice of Group meetings at least 14 days in advance of the workshops, to allow for publication of notice of the Group workshops in the Daily Calendar at least 10 days in advance of the workshops. In this regard, DRA shall timely and electronically send to the Docket Office an appropriately formatted Workshop Notice at DKT@cpuc.ca.gov.

3. In reporting written *ex parte* communications regarding the Group and distributed to the parties, DRA may attach a Notice of Availability of the documents, in lieu of copies of the documents, to the served copies of its Notice of *Ex Parte* Communication. Copies of the documents shall be attached to the filed copies of the Notice of *Ex Parte* Communication.

4. In summary, the motion is denied.

Dated June 25, 2007, at San Francisco, California.

/S/ BERTRAM D. PATRICK

Bertram D. Patrick  
Administrative Law Judge

### **INFORMATION REGARDING SERVICE**

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Dated June 25, 2007, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis